

No.

3725

United States
Circuit Court of Appeals
For the Ninth Circuit.

IN RE ALFONSO CABRILLOS et alias, an infant,
LOUISA CABRILLOS,

Appellant,

vs.

EMILLIO ANGEL and CHONITA ANGEL, his
wife,

Appellees.

Transcript of Record.

Upon Appeal from the United States District Court for
the Southern District of California,
Southern Division.

FILE

JUL 25 1927

F. D. MONCKTON,
CLERK

No.

United States
Circuit Court of Appeals
For the Ninth Circuit.

IN RE ALFONSO CABRILLOS et alias, an infant,
LOUISA CABRILLOS,

Appellant,

vs.

EMILLIO ANGEL and CHONITA ANGEL, his
wife,

Appellees.

Transcript of Record.

Upon Appeal from the United States District Court for
the Southern District of California,
Southern Division.

INDEX.

[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur.]

	PAGE
Agreement of Adoption.....	22
Answer and Return on Habeas Corpus.....	34
Appeal Bond for Cost.....	56
Assignment of Errors.....	43
Bill of Exceptions.....	46
Citation	2
Consent of Adoption.....	21
Consent of Adoption.....	23
Consent of Adoption.....	24
Decree of Adoption.....	26
Names and Addresses of Attorneys.....	1
Order Allowing Appeal.....	42
Order for Writ of Habeas Corpus.....	31
Petition for Adoption.....	15
Petition for Appeal.....	40
Petition for Writ of Habeas Corpus.....	3
Praecipe	59
Testimony:	
Botllo, Mr.	50
Cross-Examination	53
Cabrillos, J.	47
Cross-Examination	49
Writ of Habeas Corpus.....	32

Names and Addresses of Attorneys.

For Petitioner and Appellant:

F. C. AUSTIN, ESQ.,

R. C. NOLEMAN, ESQ.,

308 Bullard Bldg., Los Angeles, Calif.

For Respondents and Appellees:

GEORGE A. HOOPER, ESQ.,

401 California Bldg., Los Angeles, Calif.

United States of America, ss.

To EMILLIO ANGEL and CHONITA ANGEL,

RESPONDENTS,

GREETING:

You are hereby cited and admonished to be and appear at a United States Circuit of Appeals for the Ninth Circuit, to be held at the City of San Francisco, in the State of California, on the 15th day of July A. D. 1921, pursuant to an appeal duly allowed by the District Court, the order therefore on file in the Clerk's Office of the District Court of the United States, in and for the Southern District of California, in that certain Habeas Corpus Cause No. 2996 (Cri.) wherein Louisa Cabrillos, Petitioner on behalf of Alfonso Cabrillos, et alias, is Appellant, and Emillio Angel and Chonita Angel are Respondents, Appellees and you are required to show cause, if any there be, why the decree dismissing said writ in the said cause mentioned, should not be corrected, and speedy justice should not be done to the parties in that behalf.

WITNESS, the Honorable Oscar A. Trippet
United States District Judge for the Southern
District of California, this 17th day of June, A.
D. 1921, and of the Independence of the United
States, the one hundred and forty-fifth

Trippet

U. S. District Judge for the South-
ern District of California.

[Endorsed]: No. 2996 (Cri.) *In the United States Circuit Court of Appeals for the NINTH CIRCUIT In re ALFONSO CABRILLOS, et aliases, an infant, LOUISA CABRILLOS, Petitioner, Appellant, vs EMILLIO ANGEL, et ux., Appellees.* Citation F. C. Austin and R. C. Noleman 307-8-9 Bullard Bldg., Phone 15497 Attorneys for Appellant. Received copy of the within Citation, this 21st day of June, 1921. Geo. A. Hooper Attorneys for Respondents, Appellee's. Filed Jun 24 1921 *CHAS. N. WILLIAMS, Clerk* Douglas Van Dyke, *Deputy*

IN THE DISTRICT COURT OF THE UNITED STATES IN AND FOR THE SOUTHERN DISTRICT, SOUTHERN DIVISION OF THE STATE OF CALIFORNIA.

IN-RE: ALFONSO CABRILLOS, ALSO KNOWN AS ALFONSO ORTEGA AND AS GERARDO ALFONSO ANGEL, an infant. : PETITION : FOR A WRIT : OF HABEAS : CORPUS ON : BEHALF OF : SAID : INFANT.

TO THE HONORABLE, THE DISTRICT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT, SOUTHERN DIVISION OF THE STATE OF CALIFORNIA:

YOUR PETITIONER, LOUISA CABRILLOS, a feme sole, a spinster, a native bron citizen of the

United States, domiciled within the Southern Division, Southern District of the State of California, viz, a resident of San Diego County, State of California:

Humbly complaining, shows to this Honorable Court, that complaint is made on behalf of an infant child of tender age, namely of the age of two years and eight months or thereabouts, whose true name is ALFONSO CABRILLOS, but who sometimes has been known as ALFONSO ORTEGA, and who is now known and denominated as GERARDO ALFONSO ANGEL:

And for cause of complaint in behalf of said infant child aforesaid Your Petitioner complaining avers:

That the said infant child aforementioned, by whatever name he may be known or designated, is now and at this time is being unlawfully detained, restrained, imprisoned and deprived of his liberty by one EMILIO ANGEL, the said Emilio Angel being aided and assisted in the detention of the aforesaid child by Chonita Angel, wife of the said Emilio Angel, and that the said EMILIO ANGEL and CHONITA ANGEL, at this time unlawfully detain and deprive the said infant child aforementioned of his liberty within the Southern District of California, and within the Southern Division, to-wit at and within the City and County of Los Angeles, State of California.

Complaining further your Petitioner avers that Emilio Angel and Chonita Angel are and each of them now are and have been at all times hitherto natives of and citizens of the Republic of Mexico, temporarily so-

journing within the Confines of the United States and within the Jurisdiction of this Honorable Court:

Your Petitioner further avers that she is the mother of said infant child, and that said child was born to Your Petitioner out of wedlock, and that said child was born on the 3rd day of October, 1918, at Los Angeles, Los Angeles County, State of Calif.; That said child was born a citizen of the United States, entitled to all and singularly, the rights, privileges and benefits of a Citizen of the United States:

Your Petitioner further avers that by sham, subterfuge, fiction inadvertance, unlawful and unwarranted proceedings, being had and done as will more fully *appear* hereinafter, the said infant child has been deprived of his right of citizenship and has been expatriated, and is now being detained and deprived of his liberty and unlawfully detained, and by said sham, fiction, unlawful and unwarranted proceedings expatriated held and so deprived of his liberty by the said Emilio Angel and the said Chonita Angel, and that said infant child has been so detained by said parties aforesaid, since about the 19th day of June, 1919. Your Petitioner, complaining, show to this Honorable Court, that on or about October 16th, 1918, at a time when your petitioner was weak in body and mind, covered with shame, without funds and incapable of the transaction of any business of any nature; the said infant child, the child born of the body of your Petitioner, became intrusted to the CHILDRENS HOME

SOCIETY OF CALIFORNIA, the branch thereof at Los Angeles, California:

That as to the manner of said intrusting or what occurred, your Petitioner at said time was in such condition *mentaly* and *physicialy*, that she, Your Petitioner was entirely *unconscience* of what occurred or of what did not occur: That any agreement which may have been entered into by your petitioner concerning or relating to said infant child, or if any agreement was made, of and concerning said infant child, such agreement was not made understandingly by your petitioner; Further *avering* that at said time, October 16th, 1918, your petitioner was not *physicialy* or *mentaly* capable of understanding, such agreement or any agreement or capable of transacting any business of any nature at all:

Your Petitioner further avers that at no time or at any time or in any manner at all, has this Complainant, Your Petitioner, knowingly surrendered or released her claim of said infant child:

That Your Petitioner has at all times since the birth of said infant child been desirous of recovering him, the said child, That Your Petitioner is the lawful custodian of said child and that said child is now detained of its liberty and expatriated without the consent and against the will, wishes and desires of Your Petitioner, and this honorable court is asked to restore said child to the custody of Your Petitioner and to restore said infant child to its rights and privileges as a citizen of the United States:

Your Petitioner further avers that she within a few weeks after October 16th, 1918, and upon her recovery sought the said infant child, and for more than one year thereafter, Your Petitioner was entirely without information as to the whereabouts, or as to whether said infant child was living or dead:

That within the last few months, Your *Petitioner* became informed that on the 19th day June, 1919, by a *prceedings* had in the Superior Court of the County of Los Angeles, State of California Known and numbered as cause B;74,835, a complete transcript of said proceedings is made a part hereof marked Exhibit "A". That by said exhibit it is made to appear that the said infant child by decree of court was adopted by the said Emilio Angel with the consent of Chonita Angel, his wife, as the child of the said Emilio Angel and wife, they being then citizens aliens owing *there* allegiance to the Republic of Mexico, sojourning but temporarily within the confines of the United States as heretofore herein averred:

That by such proceedings had and done, the said infant child was expatriated and divested of all his rights of citizenship of the United States and the United States deprived of one of its citizens, that the inherent rights and privileges of citizenship, the right to participate in public affairs, in political affairs, in public activities, the right of suffereage, and all the inherent rights conferred upon citizens of this Government, were by the aforesaid, sham, fictitious, unlawful and unwarranted proceedings, taken from said infant child, and

the said infant child has been deprived and divested of citizenship of the United States:

That said pretended adoption works an expatriation of a native born citizen of the United States of one incapable of consenting and confers and transfers the custody of a native born infant citizen of the United States to an alien and to one who owes allegiance to a foreign power:

That by the aforesaid adoption the laws of the United States are violated and public policy disregarded:

That the Court making said decree is wholly without jurisdiction and without jurisdiction to expatriate a citizen of the United States or to abridge any right of citizenship, and that said decree of adoption was and is fiction, sham, unlawful, unwarranted and void ab initio:

Your Petitioner further shows to the court that the said Emilio Angel and Chonita Angel now hold said infant child and claim that said adoption is in force and are about to take said infant to the Republic of Mexico.

Your Petitioner is informed and *belives* and on such information avers that the pretended adoption was made under certain ordinances, statutes and codes of the State of California, and are as follows, viz:

Section 221 Civil Code:

“CHILD MAY BE ADOPTED. Any minor child may be adopted by any adult person, in the cases and subject to the rules prescribed in this chapter.”

Section 222 Civil Code:

“WHO MAY ADOPT. The person adopting a child must be at least ten years older than the person adopted.”

Section 227 Civil Code:

“JUDGE’S ORDER WHERE FILED, The court must examine all persons appearing before it pursuant to the last section, each separately and if satisfied that the interest of the child will be promoted by the adoption, it must make an order declaring that the child shall thenceforth be regarded and treated in all respect as the child of the person adopting.

The petition, agreement, consent, and order must be filed and registered in the office of the County Clerk in the same manner as papers in other special proceedings.”

Section 228 Civil Code;

“EFFECT OF ADOPTION. A child, when adopted, may take the family name of the person adopting. After adoption, the two shall sustain towards each other the legal relation of parent and child, and have all the rights and be subject to all the duties of that relation.”

Section 229 Civil Code:

“EFFECT ON FORMER RELATION OF CHILD. The parents of an adopted child are, from the time of adoption, relieved of all parental duties toward, and all responsibility for the child so adopted.”

Your Petitioner avers that she is informed and *belives* and on such information and belief says that the afore-

said sections of the Civil Code of the State of California, are each and every one of them contrary to the Constitution of the United States, the Statutes of the United States and in violation of all rules and regulations relative to citizens and citizenship of the United States: That said sections of the *Civil* Code aforesaid work an expatriation of said infant child and are in derogation of common, constitutional and statutory law.

Your Petitioner is advised and therefore avers that said sections of the Civil Code of the State of California are contrary to the Fourteenth Amendment to the Constitution of the United States, To-wit:

XIV AMENDMENT

“SECTION 1. All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside.

No State shall make or enforce any laws which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.”

Your petitioner further avers that said sections of the Civil Code of California are contrary to the Fifteenth Amendment to the Constitution of the United States, to-wit:

XV AMENDMENT.

“SECTION 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.”

Your Petitioner further shows to this Honorable Court that said Emilio Angel and the said Chonita Angel are not suitable persons to have the custody of said minor child, in this that the said persons last named are violators of the laws of the United States and are not law abiding persons; further *avering* that heretofore on or about the day of April 1921, before this Honorable Court the said Emilio Angel entered a plea of guilty to a charge of high grade misdemeanor and was adjudged guilty on said plea and adjudged to pay a fine of \$300.00:

That the acts and conduct of the said Emilio Angel and Chonita Angel while domiciled within the United States have been such, that as your petitioner is informed and *belives* and so says on such information and *belives* as to preclude them and each of them from ever becoming citizens, even if it was their desire to become citizens of the United States.

Your Petitioner further avers that she is informed and believes and therefore avers that said Emilio Angel and Chonita Angel, have threatened to and are about to depart from the jurisdiction of the United States and to return to the Republic of Mexico, of which country they and each of them are citizens, and

that they proposed to and are about to take with them the said infant child ALFONSO CABRILLIOS:

Your Petitioner further avers that she is informed and *belives* and so says on information and belief that the said Emilio Angel and the said Chonita Angel are without fear of contempt of court, and are without fear or respect of the effect of Court Proceedings. and are without respect and have no respect for the laws, rules, customs and regulations of the United States Government, and that they and each of them have threatened if proceedings are taken towards the securing of said infant child, that they will take said child and flee to the Republic of Mexico, charging that they have declared that they will have no fear of being dispossessed of said child on their arrival upon Mexican soil.

Your Petitioner further avers that she is advised, informed and *belives* that in the event process of court is served upon the said Emilio Angel and Chonita Angel in any matter touching the custody of said minor child, that they, the said Emilio Angel and Chonita Angel will evade, disregard and attempt to thwart the effect of such proceeding by resorting to flight and attempt to remove the said infant child from the jurisdiction of the court by fleeing to the Republic of Mexico:

That on account of the nearness and *accessibility* to the Republic of Mexico, it is comparatively a matter without any great difficulty for the said Emilio Angel

and Chonita Angel, together with said infant child to reach the Republic of Mexico of which Country, they and each of them are citizens and owe their allegiance and will pretend that said Infant Child is also a citizen. Your Petitioner further represents that it is for the best interest of said child that it be restored to Your Petitioner,

That Your Petitioner resides at.....
in San Diego County, California, that she resides with her father, the Grand-father of said child, and that the Grand-father owns in his own right.....
acres of land, and that said land, ranch is stocked with horses, cattle and domestic animals and that Your Petitioner is in interest with her father, and that the Grand-father is desirous and anxious of having the custody of said child in your Petitioner in order that he may see to the care, custody and education of the said infant child Alfonso Cabrillos:

WHEREFORE, It is prayed that the Honorable Court assume jurisdiction,

That a *Writ* of Habeas Corpus Issue for said infant child, and that a day certain be fixed:

That said writ be served upon the said Emilio Angel and Chonita Angel, that they show cause why said child is held by them.

That this Court make an order directing the United States Marshall of this District to take possession of the said infant child Alfonso Cabrillos and to retain said child in his custody until the final day of hearing.

That on the final hearing that said child be awarded

to your Petitioner and for such other and further orders as may be meet and proper in the premises and in conformity to the regulations of this honorable court and in keeping with the constitutional rights of citizens of the United States.

And for which your Petitioner forever prays.

Louisa Cabrillos

attest F. C. Austin &
R. C. Noleman
her attorneys.

NO B-74835

=====

SUPERIOR COURT
LOS ANGELES COUNTY

=====

IN RE ADOP. OF

Plaintiff,

-vs-

ALFONSO ORTEGA,

Defendant.

=====

J U D G M E N T R O L L

=====

FILED AND ENTERED JUN 23, 1921
IN BOOK 472 PAGE 300
H J LELANDE, Clerk,
By W. B. Hitchcock, Deputy.

=====

IN THE SUPERIOR COURT OF THE STATE
OF CALIFORNIA, IN AND FOR THE
COUNTY OF LOS ANGELES.

--- oOo ---

IN THE MATTER OF THE)
ADOPTION OF ALFONSO) PETITION FOR
ORTEGA,) ADOPTION.
A Minor.)

--- oOo ---

To the Honorable Superior Court of the State of
California, in and for said County:

The petition of Emilio Angel and Chonita Angel
of said County respectfully shows:

I.

That Emilio Angle is of the age of 32 years and
that Chonita Angel is of the age of 30 years; that
they are residents and each of them is a resident of
the County of Los Angeles, State of California; that
they have been united in marriage for 12 years last
past, and they now reside with each other in said
County and State.

II.

That Alfonso Ortega was born to Randolph Ortega
and Louisa Ortega, husband and wife, on the 3rd
day of October, 1918, That Randolph Ortega, father
of said minor, is now deceased.

III.

That Louisa Ortega, mother of said minor child,
Alfonso Ortega, by an instrument in writing, duly

acknowledged as required by law, relinquished and abandoned said minor child unto the Children's Home Society of California, on the 16th day of October, 1918, for the purpose of adoption; that said relinquishment is attached hereto and made a part hereof, and is marked Exhibit "A"; that prior to the commencement of this proceeding, a copy of said relinquishment was duly filed in the office of the State Board of Charities and Correction of the State of California, and that a certificate of said filing as aforesaid is attached hereto and made a part hereof and is marked Exhibit "B".

IV.

That said child is now in the County of Los Angeles, State of California, and continuously since the 16th day of October, 1918, has been maintained in the custody of the CHILDREN'S HOME SOCIETY OF CALIFORNIA, a Corporation organized and existing under and by virtue of the laws of the State of California, and having its principal place of business at Los Angeles, California, and embracing within its objects the placement of abandoned and neglected children in family homes for adoption, licensed and authorized so to do by the State Board of Charities and Corrections of the State of California, and receiving commitments from the Juvenile Court, in the home of your petitioners.

V.

That each of your petitioners is more than ten years older than said child.

KNOW ALL MEN BY THESE PRESENTS: That I am the mother and legal guardian of a minor child known as Alfonso Ortega, born October 3, 1918; and that because of my inability to properly provide for and bring up said child, do hereby fully, freely and forever relinquish and abandon to the CHILDREN'S HOME SOCIETY OF CALIFORNIA all my right of custody, services and earnings of said minor child, to the end that a home may be procured for him.

That I do hereby authorize and request said CHILDREN'S HOME SOCIETY to place said child in a home at its discretion and I hereby waive right to notice of any proceedings for his adoption, and consent to the same in any case approved by said society, its superintendent or president, or, if requested by the Society I hereby agree to appear and consent.

That I will not seek to know with whom, or where, the said child is placed, but entrusting his well being to said CHILDREN'S HOME SOCIETY will in no way disturb or interfere with the provision made for him.

WITNESS my hand and seal at Los Angeles, California, this 16th day of October, 1918.

Witnesses to signature:

LOUISA ORTEGO.

 STATE OF CALIFORNIA,)
) SS.
 County of Los Angeles.)

On this 16th day of October, A. D., 1918, before me ELISE H MELLEEN, a Notary Public in and for the said county and state, residing therein, duly commissioned and sworn, personally appeared Louisa Ortega, known to me to be the person whose name is subscribed to the within Instrument, and acknowledged to me that she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this *Ciritifcate* first above written.

(S ELISE H MELLEEN,
E _____
A Notary Public in and for said County and State.
L)

BOARD OF CHARITIES AND CORRECTIONS.

EXHIBIT B.

Martin A. Meyer, President.	MAIN OFFICE,
Carrie Parsons Bryant	San Francisco
Vice President.	995 Market Street.
John R. Haynes,	
Jessica B. Peixotto	BRANCH OFFICE,
Charles A Ramm,	Los Angeles
B. H. Pendleton	508 Union League
Cornelia McKinne Stanwood,	Bldg.
Secretary.	

I HEREBY CERTIFY that there has been filed this day in the office of the State Board of Charities and Corrections of the State of California, a copy of the relinquishment of Alfonso Ortega by Louisa Ortega

to Children's Home Society; said relinquishment bearing date Oct. 16, 1918.

IN WITNESS WHEREOF, I have hereunto set my hand this 26th day of May, 1919.

C. M. STANWOOD

Secretary, State Board of
Charities and Corrections
of the State of California.

--- oOo ---

STATE OF CALIFORNIA,)
)SS.
County of Los Angeles.)

Emilio Angel being by me first duly sworn, deposes and says: that he is one of the petitioners in the above entitled action; that he has read the foregoing petition and knows the contents thereof; and that the same is true of his own knowledge, except as to the matters which are therein stated upon his information or belief, and as to those matters that he believes it to be true.

His
Emilio X Angel

mark.

Subscribed and sworn to before me
this 17th day of June, 1919.

(S H J LELANDE, County Clerk

E

A

L)

By Sherman Smith, Deputy Clerk.

(ENDORSED) NO B-74835 Dept----- IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA IN AND FOR THE COUNTY OF LOS ANGELES. IN THE MATTER OF THE ADOPTION OF ALFONSO ORTEGA, a Minor. PETITION FOR ADOPTION. FILED JUN 17 1919, H J LELANDE Clerk By E D Doyle Deputy. George A Hooper, Wilcox Bldg., Attorney for Petitioner.

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, IN AND FOR THE COUNTY OF LOS ANGELES.

--- oOo ---

IN THE MATTER OF THE)	CONSENT OF
ADOPTION OF ALFONSO)	CHILDREN'S
ORTEGA,)	HOME SOCIETY
)	OF CALIFORNIA
A Minor.)	TO ADOPTION.

--- oOo ---

CHILDREN'S HOME SOCIETY OF CALIFORNIA, a corporation organized and existing under and by virtue of the laws of the State of California and having its principal place of business at Los Angeles, California, and embracing within its objects the placement of abandoned and neglected children in family homes for adoption, licensed and authorized so to do by the State Board of Charities and Corrections of the State of California and receiving commitments from the Juvenile Court, hereby fully and freely con-

sents to the adoption of the said child Alfonso Ortega by Emilio Angel and Chonita Angel, the petitioners herein.

IN WITNESS WHEREOF said CHILDREN'S HOME SOCIETY OF CALIFORNIA has caused this consent to be executed by its Assistant Superintendent thereunto duly authorized, this 17th day of June, 1919.

CHILDREN'S HOME SOCIETY OF
CALIFORNIA

By Elise H. Mellen

Assistant Superintendent.

Executed in the Presence of
SIDNEY N REEVE

Judge of the Superior Court.

IN THE SUPERIOR COURT OF THE STATE
OF CALIFORNIA, IN AND FOR THE
COUNTY OF LOS ANGELES.

--- oOo ---

IN THE MATTER OF THE)	
ADOPTION OF ALFONSO)	AGREEMENT OF
ORTEGA,	) ADOPTION.
A Minor.)	

--- oOo ---

Emilio Angel and Chonita Angel having petitioned the above entitled Court for the approval of the adoption of Alfonso Ortega, a minor, do hereby agree with the State of California, and with the said minor

child to the effect that the said minor child shall be adopted and treated in all respects as their own issue should be treated and that said minor child shall enjoy all of the rights of a natural child of our own issue, even unto and including the right of inheritance.

IN WITNESS WHEREOF, we have hereunto set our hands this 17th day of June, 1919.

Witness to Signatures. X
EMILIO ANGEL

Geo A Hooper. X
Elise H Mellen. CHONITA ANGEL

Executed in the presence of
SIDNEY N REEVE

Judge of the Superior Court
of the State of California.

IN THE SUPERIOR COURT OF THE STATE OF
CALIFORNIA, IN AND FOR THE
COUNTY OF LOS ANGELES.

--- oOo ---

IN THE MATTER OF THE)
ADOPTION OF ALFONSO) CONSENT OF
ORTEGA,) THE HUSBAND
) TO ADOPTION.
A Minor.)

--- oOo ---

I, Emilio Angel do hereby declare that I am the husband of Chonita Angel and that I now reside and for the 12 years last past have resided with my said

wife and that no separation has ever taken place between us; that I know the said minor child Alfonso Ortega; that I hereby give my full and free consent to the adoption of the said child by my said wife; and that I hereby give my full and free consent to the adoption of the said child jointly by myself and by my said wife.

IN WITNESS WHEREOF, I have hereunto set my hand this 17th day of June, 1919.

His
EMILIO X ANGEL

Witnesses as to mark.

mark.

Geo A Hooper

Elise H Mellen.

Executed in the presence of

SIDNEY N REEVE

Judge of the Superior Court
of the State of California.

--- oOo ---

IN THE SUPERIOR COURT OF THE STATE
OF CALIFORNIA IN AND FOR THE
COUNTY OF LOS ANGELES.

IN THE MATTER OF THE)		
ADOPTION OF ALFONSO )	)	CONSENT OF
ORTEGA, )	)	THE WIFE TO
	)	ADOPTION.
A Minor.))	

--- oOo ---

I Chonita Angel, do hereby declare that I am the wife of Emilio Angel, and that I now reside and for

the 12 years last past have resided with my said husband and that no separation has ever taken place between us; that I know the said minor child, Alfonso Ortega; that I hereby give my full and free consent to the adoption of the said child by my said husband; and that I hereby give my full and free consent to the adoption of the said child jointly by myself and by my said husband.

IN WITNESS WHEREOF, I have hereunto set my hand this 17th day of June, 1919.

Witnesses as to mark.

Her
CHONITA X ANGEL

Geo A. Hooper
Elise H Mellen

mark.

Executed in the presence of
SIDNEY N REEVE

Judge of the Superior Court
of the State of California.

(ENDORSED) NO B-74835 Dept— IN THE
SUPERIOR COURT OF THE STATE OF CALI-
FORNIA, IN AND FOR THE COUNTY OF LOS
ANGELES. IN THE MATTER OF THE ADOP-
TION OF ALFONSO ORTEGA, A Minor, Consents
and Agreement for Adoption. FILED JUN 17, 1919,
H J LELANDE, Clerk By R. F. Gragg, Deputy.

IN THE SUPERIOR COURT OF THE STATE
OF CALIFORNIA, IN AND FOR THE
COUNTY OF LOS ANGELES.

--- oOo ---

IN THE MATTER OF THE)	
ADOPTION OF ALFONSO)	DECREE OF
ORTEGA,	) ADOPTION.
A Minor.)	

--- oOo ---

Emilio Angel and Chonita Ortega, having presented their petition praying for approval of their adoption of Alfonso Ortega, a minor, and the said matter coming on regularly to be heard, George A. Hooper, appearing as attorney for petitioners, there appearing before the Court Emilio Angel and Chonita Angel, his wife, Alfonso Ortega, the said child and Elise H. Mellen, Assistant Superintendent of the CHILDREN'S HOME SOCIETY OF CALIFORNIA, who were examined by the Court, each separately, from which examination it is found that Emilio Angel is of the age of 32 years; that Chonita Angel is of the age of 30 years; that they are residents and each of them is a resident of the County of Los Angeles State of California, that they have been united in marriage for 12 years last past and are living together as husband and wife; that on or about the 3rd day of October, , 1918, the said Alfonso Ortega was born to Randolph Ortega and Louisa Ortega husband and wife. That said Randolph Ortega, father of said minor child, is deceased.

That Louisa Ortega, mother of said minor child, by an instrument in writing, duly acknowledged as required by law, relinquished and abandoned said minor child to the Children's Home Society of California on the 16th day of October, 1918. for the purpose of adoption; that a copy of said relinquishment was duly filed in the office of the State Board of Charities and Correction of the State of California, prior to the commencement of this proceeding.

That said child is now in the County of Los Angeles, State of California, and continuously since the 16th day of October, 1918, has been maintained in the custody of the CHILDREN'S HOME SOCIETY OF CALIFORNIA, a Corporation, organized and existing under and by virtue of the laws of the State of California and having its principal place of business at Los Angeles, California, and embracing within its objects the placement of abandoned and neglected children in family homes for adoption, licensed and authorized so to do by permit of the State Board of Charities and Corrections of the said State of California, and receiving commitments from the Juvenile Court, in the home of the petitioners herein; that each of the petitioners is more than ten years older than the said child that the said petitioners desire to adopt, the said child and desire to adopt him under the name of Gerardo Alfonso Angel.

And the said petitioners, Emilio Angel and Chonita Angel and the managers of the Children's Home Society of California having executed, in the presence

of the Court, the requisite consent and all the persons appearing before the court having been examined, each separately, as required by law, and it appearing therefrom that the said petitioners are able to provide and care for said child in such a manner that its interests will be promoted by the adoption proposed, and the said petitioners having then and there in the presence of the Court executed an agreement to the effect that the said child shall be adopted and treated in all respects as their own issue should be treated, and the Court, after hearing the evidence, being satisfied that the interests of the said child will be promoted by the adoption proposed, grants said petition, and it is, therefore, by the Court,

ORDERED, ADJUDGED AND DECREED, that the said Alfonso Ortega shall henceforth and hereafter be regarded and treated in all respects the child of Emilio Angel and Chonita Angel, and that the said child shall henceforth and hereafter bear the name of Gerardo Alfonso Angel.

DONE IN OPEN COURT this 17th day of June, 1919.

SIDNEY N. REEVE.

Judge of the Superior Court.

 (ENDORSED) NO B-74835 Dept — IN THE
 SUPERIOR COURT OF THE STATE OF CALI-
 FORNIA, IN AND FOR THE COUNTY OF LOS
 ANGELES. In the Matter of the Adoption of Alfonso

Ortega, a Minor. DECREE OF ADOPTION.
DOCKETED JUN 23 1919. ENTERED JUN 23
1919. BOOK 472 Page 300 BY Teresa Hogan
Deputy Clerk FILED JUN 17 1919 H J LELANDE
Clerk By E D Doyle Deputy.

IN THE SUPERIOR COURT OF THE STATE
OF CALIFORNIA, IN AND FOR THE
COUNTY OF LOS ANGELES.

--- oOo ---

IN RE ADOP. OF)
 Plaintiff)
))
 vs.) SS.
))
ALFONSO ORTEGA, a Minor,)
))
 Defendant.)

--- oOo ---

I, H. J. LELANDE, County Clerk of the County
of Los Angeles, State of California, and *ex-officio*
Clerk of the Superior Court in and for said County,
do hereby certify the foregoing to be a true copy of
the Judgment entered in the above entitled action, and
recorded in Judgment Book 472 of said Court, at page
300.

And I further certify that the foregoing papers,
hereto annexed constitute the Judgment Roll in said
action.

WITNESS my hand and the seal of said Superior Court this JUN 23 1919.

H J LELANDE, Clerk

(S
E
A
L)
By W. B. Hitchcock, Deputy.

STATE OF CALIFORNIA:
LOS ANGELES COUNTY :

Louisa Cabrillos being first duly sworn deposes and says that she is the Petitioner in the foregoing Petition for a Writ of Habeas Corpus, that she has heard read and knows the contents of the foregoing petition, and the statements therein contained are true of her own knowledge, except as to the matters and things therein stated on her information and belief, and as to those matters and things she believes it to be true.

Louisa Cabrillos

Subscribed and sworn to before me this
19 day of April, 1921.

F C Austin

(Seal) Notary Public in and for Los Angeles
County, California.

(Endorsed) 2996 Crim. ORIGINAL In Re Habeas Corpus Alfonso Cabrillos an infant Filed May 2-1921 *Chas. N. Williams, Clerk* Douglas Van Dyke *Deputy* F. C. Austin & R. C. Noleman Attorneys for Petitioner 308-9 Bullard B Phone 15497.

IN THE DISTRICT COURT OF THE UNITED STATES IN AND FOR THE SOUTHERN DISTRICT OF CALIFORNIA,
(Southern Division)

In re)	
ALFONSO CABRILLOS,	)	ORDER FOR WRIT
alias etc.	)	HABEAS CORPUS.
An Infant.	)	No. 2996 Crim.
)	<hr/>
)	

The Court being informed in the premises, directs that on the filing of the Petition, that the Writ issue, directed to the Respondent, made returnable on the 9th day of May, 1921, at ten o'clock A. M.; that the Marshal in and for this District on payment of the costs therefor take into his Custody the infant child Alfonso Cabrillos, also known as Alfonso Ortega and as Gerardo Alfonso Angel and safely keep and have in his custody and before the court on the day above then and there to do with the said infant child as may be directed by order of the Court.

Done this 2nd day of May, 1921.

Trippet
Judge.

(Endorsed) Original. Crim. No. 2996 In the District Court of the United States, Southern District of California (Southern Division) In re ALFONSO CABRILLOS, also known as ALFONSO ORTEGA and as GERARDO ALFONSO ANGEL, an infant, ORDER FOR WRIT OF HABEAS CORPUS. Filed

May 2- 1921 *Chas. N. Williams, Clerk* Douglas Van Dyke, *Deputy* F. C. Austin and R. C. Noleman, 309 Bullard Block, Phone 15497.

IN THE DISTRICT COURT OF THE UNITED STATES IN AND FOR THE SOUTHERN DISTRICT OF CALIFORNIA,
(Southern Division)

IN-RE:) No. 2996 Crim.
ALFONSO CABRILLOS,) WRIT OF HABEAS
alias etc.,) CORPUS
An Infant.)

THE PRESIDENT OF THE UNITED STATES OF AMERICA TO EMILIO ANGEL and CHONITA ANGEL

GREETING:

YOU are hereby commanded to have the body of ALFONSO CABRILLOS, also known as ALFONSO ORTEGA and also known as GERARDO ALFONSO ANGEL, by you imprisoned and detained, as it is said, together with the time and cause of such imprisonment and detention, before the United States District Court for the SOUTHERN DISTRICT (Southern Division) OF CALIFORNIA, at Los Angeles, California at 10 o'clock A. M., on the 9th day of May, A. D. 1921, to be dealt with according to law; and have you then and there this writ, with a return thereon of your doings in the premises.

WITNESS the Honorable Oscar A. Trippet, Judge of the United States District Court for the Southern

District of California, this 3rd day of May, A. D. 1921, and of the independence of the said United States the 145th.

CHAS. N. WILLIAMS

Clerk.

(Seal)

By Douglas Van Dyke, Deputy

(Endorsed) Marshal's Criminal Docket No. 11511
No 2996 Crim. S. D. United States District Court
Southern District of California Southern Division. In
re -- ALFONSO CABRILLOS, alias etc. An Infant.
WRIT OF HABEAS CORPUS. Filed May 7 1921
CHAS. N. WILLIAMS, Clerk R S Zimmerman
Deputy Clerk.

In obedience to the within writ of Habeas Corpus, I served Emelio Angel and Chonita Angel personally by leaving copy with Emelio Angel and Chonita Angel, and I also took into my custody Alfonso Cabrillos on the 3d day of May, 1921, and released him upon order of U. S. District Judge Trippet.

C. T. WALTON, U. S. Marshal,

By D. S. Bassett,

Deputy

Dated May 3d, 1921.

IN THE DISTRICT COURT OF THE UNITED
STATES IN AND FOR THE SOUTHERN
DISTRICT OF CALIFORNIA,
SOUTHERN DIVISION.

In Re ALFONSO CABRILLOS, :
Also Known as ALFONSO OR- : Answer & Return
TEGO, etc., : on Habeas Corpus.
an Infant :

Respondents Emilio Angel and Chonita Angel as
an answer and return to the within writ of Habeas
Corpus, respectfully represent and allege:

That the said child, Alfonso Ortego, now known as
Gerardo Alfonso Angel, is in the custody and under
the control of respondents. That said child is law-
fully and justly in their custody and under their
control.

That the said child is in the custody and under the
control of respondents pursuant to a decree of the
Superior Court of the State of California, which said
decree is in full force and effect, a copy of which is
attached hereto and made a part hereof. *The* the
said Superior Court of the State of California is a
court having full jurisdiction in the premises and hav-
ing full jurisdiction to render said decree.

That the said decree was a decree of adoption, and
that the petitioner herein, the mother of said child,
consented to said adoption and relinquished her right
to the custody of said child. That the said child was
relinquished to the Children's Home Society of Cali-

fornia, a corporation, organized for the purpose of placing in homes children who have been deserted and given up by their parents, and under the supervision of the State Board of Charities and Correction of the State of California. That the said Children's Home Society of California consented to said adoption.

That said child is not being unlawfully detained, restrained, imprisoned or deprived of his liberty, by respondents or by anyone.

The respondents deny that they are temporary sojourning within the confines of the United States of America, but allege that they are residents therein and have been residents therein for more than six years.

The respondents deny that by sham, subterfuge, fiction, inadvertance, unlawful or unwarranted proceedings, or at all or in any manner, the said child has been or is now being deprived of his right to citizenship or of his rights of citizenship, or is being expatriated or deprived of his liberty.

The respondents have no information or belief as to the allegation that the said mother of said child signed the relinquishment of said child without understanding, and therefore deny that such agreement was not made understandingly, and deny that she was not physically or mentally capable of understanding such agreement.

Respondents deny that the petitioner herein is the lawful custodian of said child. They deny that said

child has lost any rights or privileges as a citizen of the United States.

They deny that said child, by reason of being adopted as herein stated, or at all, or for any reason, was or has been expatriated or divested of all or any of his rights of citizenship of the United States, and deny that the United States is being or has been deprived of one of its citizens, and deny that said child has been or is being deprived of his right to participate in public affairs, political affairs, public activities, the right of suffrage or the inherent rights conferred upon citizens of the United States.

They deny that the said adoption works an expatriation of a native born citizen.

They deny that by said adoption the laws of the United States are or have been violated or public policy disregarded.

They deny that the court that made said decree is or was wholly or at all without jurisdiction. They deny that said decree of adoption was or is fiction, sham, unlawful, unwarranted or void in any manner.

Respondents deny that they are about to, or were about to take said child to the Republic of Mexico.

Respondents have no information or belief upon the subject and therefore deny that the sections of the Civil Code of California relating to adoptions and quoted in the petition herein, are or that any of them are contrary to the constitution of the United States, and deny that they or any of them are in violation of

all or any rules or regulations relative to citizens or citizenship. They deny that said sections work an expatriation, or that any of said sections work an expatriation of said child or are in derogation of common, constitutional or statutory law.

Respondents deny that said sections of the Civil Code of California are contrary to the fourteenth amendment to the constitution of the United States, or to the fifteenth amendment or to any amendment.

They deny that they are without respect for this court or for the laws of the state or of the United States, and deny that they have threatened to go to the Republic of Mexico in case proceedings are taken regarding said child.

Respondents for further answer hereto, alleges and claim that this court is without jurisdiction to hear or determine this matter, and respectfully ask that the writ be dismissed. That said petition does not state sufficient facts for the issuance of this writ.

his
Emilio X Angel
mark

her
Chonita X Angel
mark

Geo A Hooper

Attorney for Respondents
(See Petition for Decree of Adoption)

STATE OF CALIFORNIA

SS

COUNTY OF LOS ANGELES

EMILIO ANGEL AND CHONITA ANGEL being duly sworn depose and say that they are the respondents herein and have heard read the within and foregoing return and answer, and know the contents thereof and that the same is true of their own knowledge, except as to matters stated upon information and belief and as to those matters they believe them to be true

Subscribed and sworn to before me

his

this 6th day of May, 1921

Emilio X Angel

mark

her

Lloyd O. Miller,

Chonita X Angel

Notary Public, Los Angeles County,

mark

State of California.

(Seal)

Witness as to marks

Geo A. Hooper

(Endorsed) 2996 Crim. IN THE DISTRICT COURT OF THE UNITED STATES, IN AND FOR THE SOUTHERN DISTRICT OF CALIFORNIA (Southern Division) In Re Alfonso Cabrillos etc., an Infant. on Habeas Corpus Return and Answer Received copy of within return this 6th day of May 1921 F C Austin R C Noleman Atty for Petitioner Filed May 7 1921 Chas. N. Williams Clerk By Louis J Somers Deputy George A. Hooper,

Attorney for Respondents 401 California Bldg., Los Angeles, Calif.

At a stated term, towit: the Jan 1921, Term of the District Court of the United States of America, within and for the Southern Division of the Southern District of California, held at the Court Room thereof, in the City of Los Angeles, on Monday the 23rd day of May, in the year of our Lord One thousand nine hundred and twenty one

Present:

The Honorable OSCAR A. TRIPPET, District Judge.

In the Matter of Alfonso Cabrillos, et al.,)
etc., for a Writ of Habeas Corpus.) No. 2996
) Crim. S. D.

This matter coming on for opinion of Court on Petition for Writ of Habeas Corpus, and the Court having announced that the Court's Opinion is ready, and ordered that the same be filed herein, and it appearing from said Opinion that the Petition for Writ of Habeas Corpus has been by the Court denied, and accordingly, said Petition for Writ of Habeas Corpus is dismissed, to which ruling of the Court, R. C. Noleman thereupon enters an Exception herein on behalf of the Petitioner, which is ordered entered herein.

IN THE DISTRICT COURT OF THE UNITED
STATES IN AND FOR THE SOUTHERN
DISTRICT, SOUTHERN DIVISION,
STATE OF CALIFORNIA.

IN-RE: ALFONSO CABRIL-	) No. 2996 (crim.)
LOS, ALSO KNOWN AS	) CHARGE THAT
ALFONSO ORTEGA AND	) SAID INFANT
AS GERARDO ALFONSO	) CHILD IS UN-
ANGEL, an infant;	) LAWFULLY
LOUISA CABRILLOS, Peti-	) DETAINED BY
tioner.	) EMILLO AN-
HABEAS CORPUS	) GEL & CHO-
<hr/>	) NITA ANGEL,
	) his wife.
	) Respondents.

PETITION FOR APPEAL

And now comes Louisa Cabrillos, Petitioner and respectfully represents that on the 23rd day of May, 1921, a judgment was entered by this Court dismissing her petition for habeas corpus of the infant child Alfonso Cabrillos, also known as Alfonso Ortega and as Gerardo Alfonso Angel, and remanding said child in custody of Emillio Angel and Chonita Angel, Respondents:

And your petitioner respectfully shows that in said record, proceedings and judgment in this cause lately pending against your Petitioner and in behalf of the said child aforesaid, manifest errors have intervened to the prejudice and injury of your Petition in behalf of said child, all of which will appear more in detail

in the assignment of error which is filed with this petition.

Wherefore, your petitioner prays that an appeal may be allowed her from said judgment to the United States Circuit Court of Appeals for the 9th Circuit.

Louisa Cabrillos

Petitioner by her attorneys,
F C Austin &
R C Noleman

(Endorsed) HABEAS CORPUS No. 2996 (Crim.)
In the United States District Court Southern District of California Southern Division IN-RE: Alfonso Cabrillos et aliases, an infant, Louisa Cabrillos, Petitioner, Appellant *vs.* Emillios Angel et ux, Respondents, Appellee' PETITION FOR APPEAL
Filed Jun 13 1921 CHAS. N. WILLIAMS, *Clerk*
Douglas Van Dyke *Deputy* F. C. Austin & R. C. Noleman 307-8-9 Bullard Blk., Phone 15497, Attorneys for Petitioner, Appellant.

IN THE DISTRICT COURT OF THE UNITED STATES IN AND FOR THE SOUTHERN DISTRICT, SOUTHERN DIVISION, STATE OF CALIFORNIA.

	)	HABEAS COR-
	)	PUS No. 2996
	)	(Crim.)
IN-RE: ALFONSO CABRIL-	)	CHARGE THAT
LOS, ALSO KNOWN AS	)	SAID INFANT
ALFONSO ORTEGA AND	)	CHILD IS UN-
AS GERADO ALFONSO	)	LAWFULLY
ANGEL, an infant;	)	DETAINED BY
LOUISA CABRILLOS,	)	EMILLIO AN-
PETITIONER AND APPEL-	)	GEL & CHO-
LANT.	)	NITA ANGEL,
	)	his wife,
	)	RESPONDENTS
	)	AND APPEL-
	)	LEE'S

ORDER ALLOWING APPEAL

On reading of the petition of Louisa Cabrillos, Petitioner, for appeal and consideration of the assignment of error presented therewith it is ordered that the appeal as prayed for be and is hereby allowed.

Cost bond on appeal is hereby fixed in the sum of \$300.00

Dated June 1921.

Trippet

Judge.

(Endorsed) HABEAS CORPUS No. 2996 (Crim.) In the United States District Court Southern District of California Southern Division IN-RE: Alfonso Cabrillos et aliases, an infant, Louisa

Cabrillos, Petitioner, Appellant, *vs.* Emillio Angel et ux, Respondents, Appellee' ORDER ALLOWING APPEAL IN HABEAS CORPUS. Filed Jun 14 1921 *Chas. N. Williams, Clerk* Douglas Van Dyke, Deputy F. C. Austin & R. C. Noleman 307-8-9 Bul-lard Blk., Phone 15497, Attorneys for Petitioner, Appellant.

IN THE DISTRICT COURT OF THE UNITED STATES IN AND FOR THE SOUTHERN DISTRICT, SOUTHERN DIVISION, STATE OF CALIFORNIA.

	:	HABEAS
	:	
IN-RE: ALFONSO CABRIL-	:	CORPUS
LOS, ALOSO KNOWN AS	:	<hr/>
ALFONSO ORTEGA AND	:	No. 2996 (Crim.)
AS GERADO ALFONSO	:	Charge that said
ANGEL, and <i>infnat</i> LOUISA	:	Infant Child is un-
CABRILLOS,	:	lawfully detained
	:	by Emillio Angel
Petitioner.	:	and Chonita Angel,
	:	his wife,
	:	Respondents.

ASSIGNMENT ERRORS—HABEAS CORPUS

And now comes LOUISA CABRILLOS, Petitioner on behalf of the infant child, Alfonso Cabrillos, also known as Alfonso Ortega and as Gerado Alfonso Angel, by F. C. Austin and R. C. Noleman, her attorneys, and in connection with her petition for an appeal, says that in the record and proceedings, and judgment aforesaid, and during the trial

of the above entitled cause in said District Court, error has intervened to her prejudice, and this Petitioner, Appellant, here assigns the following errors, to-wit:

1

The Court erred in not holding that the infant child, Alfonso Cabrillos, by whatever name he may be designated, is wrongfully held and *illegaly* and unlawfully detained by the Respondents, Emillio Angel and his wife Chonita Angel.

2

The Court erred in not holding that said child is detained by the Respondents without due process of law.

3

The Court erred in not holding that the Petition, Appellant herein is deprived of the custody of said infant child without due process of law.

4

The Court erred in not finding that Sections 221, 222, 227, 228 and 229 of the Civil Code of the State of California, as were each *specifically* pleaded and embodied in the Complaint and Petition of the Petitioner, are contrary to Fourteenth Amendment to the Constitution of the United States, and contrary to the Fifteenth Amendment to the Constitution of the United States, and contrary to the Bill of Rights as enacted by *Congess* of the United States.

5

The Court erred in not holding that a Citizen of the United States being an infant of immature age, can not be adopted by an Alien.

6

The Court erred in not holding that a law enacted by any State of the Union *permittng* an Alien to adopt an infant citizen of the United States is contrary to the Constitution of the United States.

7

The Court erred in holding that said minor child was not expatriated by being adopted by an Alien.

8

The Court erred in holding that said infant child was not deprived of any of its rights as an American Citizen by being adopted by an Alien.

9

The court erred in dismissing the petition for habeas corpus and remanding the said infant child to the custody of the Respondents, Emillio Angel and Chonita Angel:

10

The Court erred in holding that Emillio Angel and Chonita Angel had acquired a right to the custody of said infant child by reason of the adoption proceedings had in the Court of the State of California.

By reason whereof, this petitioner and appellant, prays that said judgment may be reversed and that said infant child be given to the custody of Petitioner, Appellant.

F. C. Austin & R. C. Noleman
Attorneys for Petitioner and Appellant.

(Endorsed) HABEAS CORPUS No. 2996
(Crim.) In the United States District Court South-

ern District of California Southern Division IN-RE:
 Alfonso Cabrillos et aliases, an infant, Louisa Cabril-
 los, Petitioner, Appellant. *vs.* Emillios Angel et ux,
 Respondent, Appellee' ASSIGNMENT OF ERRORS
 Filed Jun 13 1921 CHAS. N. WILLIAMS, Clerk
 Douglas Van Dyke Deputy F. C. Austin and R. C.
 Noleman 307-308-309 Bullard Blk., Phone 15497, At-
 torneys for Petitioner, Appellants.

IN THE DISTRICT COURT OF THE UNITED
 STATES FOR THE SOUTHERN
 DISTRICT OF CALIFORNIA
 (Southern Division),

In-Re; Habeas Corpus,)	
ALFONSO CABRILLOS,	)	Habeas Corpus
alias etc.,	)	No. 2996 (Crim.)
An Infant.)	
)	

BILL OF EXCEPTIONS

BE IT REMEMBERED, that the above cause came on for hearing on the 9th day of May, 1921, at which time evidence was offered and received, and said cause was thereafter adjourned to May 16th, 1921, for argument and thereafter adjourned to May 23rd, 1921, for decision of the Court, each of said days being days of the January A. D. 1921, Term of said Court, before Hon. Oscar A. Trippet Judge Presiding.

Messers. F. C. Austin and R. C. Noleman appeared as Attorneys for Petitioner; George A. Hooper Esq., appeared as Attorney for the Respondents:

(Testimony of J. Cabrillos.)

The Petitioner to maintain her case offered the following evidence:

“Mr. Noleman: We will call Mr. Cabrillos,

J. CABRILLOS being called as a witness on behalf of petitioner, having been first duly sworn testifies as follows:

BY Mr. NOLEMAN:

Q. What is your name?

A. J. Cabrillos.

Q. Mr. Cabrillos where were you born?

THE COURT; Do not they admit that he is an alien?

Mr. NOLEMAN: This is the father of the girl, father of the woman who is the mother of the child.

THE COURT: They admit that he is a citizen of the United States and that the petitioner is a citizen of the United States. So what is the use of proving it?

Mr. NOLEMAN: It is not necessary. I will now offer to prove by Mr. Cabrillos that on the 16th day of October, 1918, when this child was left at this home, it was left there because of the fact that the mother was sick and the child was sick; that he was to return for the child in a few weeks; that he did come back about the last of November in 1918; and that the Children's Society put him off in some way and then wrote him that the child foster parents and then afterwards refused to let him know where the child was. I want to make this a part of the record and if your Honor finds it is not important, that will dispose of

(Testimony of J. Cabrillos.)

this witness. I also want to show that the father after a time employed a detective.

THE COURT; I don't care anything about that.

Mr. NOLEMAN: That he visited the respondent in this case and made him various offers. He offered to deposit a certain sum of money in the bank for the benefit of this child, and this respondent refused to accept it because he said the money would do him no good as he wanted to return to Mexico.

THE COURT: That is the proposition, what this man said about going to Mexico.

BY Mr. NOLEMAN: All right. Mr. Cabrillos did you on or about the 27th day of November 1919, at Los Angeles California, and in the presence of Mr. Botello and some others have a conversation with the respondent Emilio Angel relative to this child:

A. Yes,

Q. Now, did you at that time make any offer to him relative to paying him for the child or advancing money for the use and benefit of the child?

Mr. HOOPER: Objected to on the ground that it is leading; let him state what the conversation was. Objected to on the further ground that no foundation has been laid-- I want to know about this; and on the further ground that he is not a party to this action: He is not the parent of the child.

THE COURT: Objection overruled, ask the question again please.

Mr. NOLEMAN: What conversation did you have

(Testimony of J. Cabrillos.)

with the respondent Emilio Angel relative to your paying for the child or advancing money?

Mr. HOOPER; Objected to on the ground that no foundation has been laid; that the question is leading.

THE COURT: I will overrule the objection, let him state the conversation, and get through with it.

Mr. NOLEMAN; Tell the court as near as you can what occurred at that time?

A. I talked to Mr. Angel. When we went to the house, I asked him if I could help him with some money or something like that, for the benefit of the boy: and he said No, No, I needn't. Well, I said, all right then, I want to know if I can come and visit the boy. And he said, "No," Then I said, Well I think what I can do, I will go to deposit a little money for the benefit of the child's education—put in the bank some little money. Then he said, "that money won't be any benefit to me because I got to go to Mexico; I got to move from this country" That is all I can think of just now.

Mr. NOLEMAN: I do not care to inquire further.

CROSS-EXAMINATION

BY Mr. HOOPER;

Q. That was in November, 1919, Mr. Cabrillos?

A. Yes, in November, 1919, I think it was.

Q. He has not moved out of the country has he?

Mr. NOLEMAN: Objected to as incompetent, ir-

(Testimony of J. Cabrillos.)

relevant and immaterial calling for a conclusion of the witness.

THE COURT: Objection overruled.

A. I do not know.

Mr. NOLEMAN; That is all.

Mr. BOTLLO

being called as a witness on behalf of petitioner, having been first duly sworn, testifies as follows.

BY Mr. NOLEMAN:

Q. Your name is?

A. Thomas Botello.

Q. Mr. Botello, have you heretofore been retained by the mother and grand-father of this child to locate this child?

A. Yes.

Q. About when did you locate the child?

MR. HOOPER: Objected to as incompetent, irrelevant and immaterial, and that that is not in issue in this case.

THE COURT; Objection sustained.

BY Mr. NOLEMAN; Well, did you find the child?

MR. HOOPER: Objected to on the same ground.

THE COURT; Objection sustained.

By Mr. NOLEMAN; Are you acquainted with Emilio Angel the respondent in this case?

A. I am.

Q. Have you ever had any conversation with him relative to this child?

A. I did.

(Testimony of Mr. Botllo.)

Q. Did you have any conversation relative to his removing this child from the United States?

A. Yes.

Q. When, where and who was present?

A. The first time I met Mr. Angel was on the 24th day of November, 1919, I *approaced* him at his home 723 New High Street. I inquired then for Emeilo Angel. He denied that his name was Emelio Angel and said that Emilio Angel had lived in the premises but had moved to Alios Street, and that I would find him there. As I was leaving, he followed me out into the street and called me saying to me, What did I want with Emelio Angel; that he was Emilio Angel. I then told that I represented the Cabrillos in this matter and wanted to know if he would be willing to receive then fifty dollar per month from the time they had the child in their possession. He refused. Then I asked him if he would be willing to meet the grandfather and the mother of the child and have them deposit some money in the bank for the child's education and maintainance after he would become of age, twenty-one years; That he could himself name the amount and the bank would act as trustee for the child. He then said, whatever amount of money would be deposited for the benefit of the child would not do him any good, and I said "Why not?" He said "because on account of conditions here, the high cost of living, labor etc., I intend to return any minute to my country, Mexico. Then on the 27th day of No-

(Testimony of Mr. Botllo.)

vember, 1919, in the company of Mr. Cabrillos, the mother of the child, Louisa Cabrillos, I visited them again, with their permission. They permitted me to bring them there. And while there Mr. Cabrillos then asked Mr. Angel if he would accept a reasonable amount of money to be deposited by him, Mr. Cabrillos, in some bank for the education and maintainance of the child; When he stated again, that he was going to Mexico and that he would be liable to depart for Mexico any time.

Q. Did you at any time have any conversation relative to proceedings to be taken to recover this child, and what, if anything, did he say

A. I think it was during the last conversation that we had on the 27th day of November. I think in that interview there was something said about proceedings to get the child.

Mr. HOOPER: I object to anything he thinks. If he does not know, the conversation should not go into the record.

THE COURT: That is correct, Mr. Hooper.

Mr. NOLEMAN; Do you recall any conversation at any time with reference to any proceedings taken to recover this child? Mr. HOOPER; I object to that on the ground that it is leading and - -

THE COURT: What bearing would that have on the case? That is all admitted here. I understand it is admitted that the proceedings in the Superior Court were all regular.

(Testimony of Mr. Botllo.)

Mr. NOLEMAN; We charge that he was about to leave for Mexico, if court proceedings were commenced -----.

THE COURT: I will not hear anything regarding court proceedings.

Mr. HOOPER: I am willing to admit that they threatened court proceedings, tried to buy them off and offered them money and every other thing. That settles that.

Mr. NOLEMAN: Was there any other interview in which he said that he was going to Mexico?

A. The day that the write was served by the United States Marshall Basset in my presence, he refused point blank to let us know anything

THE COURT: Did he say anything about going to Mexico?

A. He did not exactly say anything. He threatened us with what he was going to do, *comit* bodily injury on us and things of that sort.

THE COURT: That has nothing to do with the child in this case.

Mr. NOLEMAN: That is all.

CROSS-EXAMINATION

BY Mr. HOOPER:

Q. When you had the first and second conversations, did you talk in English or Spanish?

A. Spanish.

Q. Mr. Angel speaks very little English and she does not speaks any?

(Testimony of Mr. Botllo.)

A. I don't know, we spoke in Spanish.

Q. Now that was in 1919 that they said they might go to Mexico, and they have not gone yet. They are still here?

A. Yes.

Q. You found them living in the same place did you not?

A. Yes.

Mr. HOOPER: That is all

THE COURT: When will you be ready to argue this case?

(Time for argument, agreed upon)

Cause being presented on argument of attorney on May 16th, 1921, and thereafter on May 23rd, 1921, the cause came on for decision of the Court:

The Court being advised in the premises finds for the Respondents and dismisses the writ:

Counsel for Petitioner in open court excepts to the judgment of the Court and then and there, *orally* in open Court gave notice of Appeal.:

The foregoing draft of Bill of Exceptions being approved by Counsel representing the respective parties, it is hereby certified that the same is correct in every particular and is hereby settled and allowed and made a part of the record in this cause.

Done in open Court this 24 day of June, 1921.

Trippet

Judge.

The foregoing Bill of Exceptions having been submitted to the Respondents; It is stipulated and agreed between Attorneys for Petitioner, Appellant and Attorney for Respondents, Appellee's, that the foregoing draft be *sttled* and allowed: dated this 24th day of June, 1921.

F. C. Austin & R C Noleman

Attys., for Petitioner-Appellant.

Geo. A. Hooper

Atty., for Respondents-Appellee's.

(Endorsed) HABEAS CORPUS No. 2996 (Crim.)
In the United States District Court Southern District
of California Southern Division IN-RE: Alfonso
Cabrillos et aliases, an Infant, Louisa Cabrillos, Petitioner,
Appellant *vs.* Emillio Angel et ux, Respondents,
Appellee' ORIGINAL BILL OF EXCEPTIONS. *Received copy of within* this 21st day of
June 1921 George A Hooper Attorney for Respondent Filed Jun 24 1921 CHAS. N. WILLIAMS,
Clerk Douglas Van Dyke, Deputy F. C. Austin & R. C. Noleman, 307-8-9 Bullard Blk., Phone 15497,
Attorneys for Petitioner, Appellant.

IN THE DISTRICT COURT OF THE UNITED
STATES IN AND FOR THE SOUTHERN
DISTRICT, SOUTHERN DIVISION,
STATE OF CALIFORNIA.

	:	HABEAS
	:	CORPUS
IN-RE:	:	No. 2,996 (Crim.)
ALFONSO CABRILLOS, also	:	Charge that said
known as Alfonso Ortega and	:	infant child is un-
as Gerado Alfonso Angel, an	:	lawfully detained
Infant,	:	by Emilio Angel
LOUISA CABRILLOS, Peti-	:	and Chonita Angel,
tioner and Appellant.	:	his wife, Respond-
	:	ents and Appellee's

APPEAL BOND FOR COST.

KNOW ALL MEN BY THESE PRESENTS,
That we LOUISA CABRILLOS as principal and
J. H. BULLARD as surety, are held and firmly bound
unto EMILLIO ANGEL and CHONITA ANGEL
and to each of them in the full and just sum of
THREE HUNDRED (\$300.00) DOLLARS to be
paid to the said EMILLIO ANGEL and CHO-
NITA ANGEL, either or both of them, their ex-
ecutors, administrators or assigns; to which payment,
well and truly to be made, we bind ourselves, our heirs,
executors, and administrators, jointly and *severally*,
by these presents. Sealed with our seals and dated
this 14th day of June, in the year of our Lord one
thousand nine hundred and twenty one:

WHEREAS, lately at the January A. D. 1921,
term at the District Court of the United States

for Southern District Southern Division of California in a suit pending in said court between Louisa Cabrillos, Petitioner on behalf of Alfonso Cabrillos, also known as Alfonso Ortega and as Gerado Alfonso Angeles an infant child, and Emillio Angel and Chonita Angel, his wife, Respondents; A judgment was rendered against said Petitioner, dismissing her petition for habeas corpus on behalf of the said Alfonso Cabrillos, also known as Alfonso Ortega and as Gerado Alfonso Angel and remanding him, the said infant child to the custody of Emillio Angel and Chonita Angel, his wife and for cost, And the said Louisa Cabrillos on behalf of said infant child having obtained an appeal to the United States Circuit Court of Appeals for the Ninth Circuit, to reverse the decree in the aforesaid suit.

Now, the condition of the above obligation is such, That if the said Louisa Cabrillos, Petitioner and Appellant on behalf of said infant child shall prosecute her appeal to effect and answer all damages and costs, if she fail to make her plea good, then the above obligation to be void; else to remain in full force and virtue.

Dated June 14", 1921.

Louisa Cabrillos (seal)

By F. C. Austin & R. C. Noleman
her attorney

J. H. Bullard (seal)

State of California)
Los Angeles County)ss

J. H. BULLARD a surety on the foregoing undertaking being duly sworn, says that he is worth the

sum specified in the said undertaking, over and above all his just debts and liabilities (exclusive of property exempt from execution) and that he is a resident within the Southern District of California and a free holder therein.

J. H. Bullard

Subscribed and sworn to before me this 14' day of June, 1921.

F. C. Austin Notary Public in and for the
(Seal) County of Los Angeles, State of California.

I, R. C. Noleman of Counsel for Petitioner, Appellant herein do hereby certify that I have carefully prepared and examined the foregoing bond, that in my opinion it is in due form and executed in such a manner as to conform to the rules, regulations and customs of proceedings on appeal in the Court of the United States; That the sureties are jointly and *severally* bound and that the bond is an obligation to the appellee's jointly and *severally* and that each of the sureties are obligated *severally* to each of the beneficiaries, as well as being joint obligated to the beneficiaries jointly;

Further that the bond is of unquestionable worth, by reason of the high financial standing of one of the bondsmen, viz. J. H. Bullard.

Certified this 14th day of June, 1921.

R. C. Noleman
307-8-9 Bullard Blk.,
Los Angeles, California.

I hereby approve the foregoing bond

Dated the 14 day of June 1921

Trippet

Judge or Clerk

(Endorsed) HABEAS CORPUS No. 2996 (Crim.)
In the United States District Court Southern District
of California Southern Division IN -RE: Alfonso
Cabrillos alias etc. an infant Louisa Cabrillos, Peti-
tioner, Appellant, *vs.* Emillio Angel et ux., Respond-
ents, Appellee's APPEAL BOND FOR COST Filed
Jun 14 1921 CHAS. N. WILLIAMS, Clerk
Douglas Van Dyke Deputy F. C. Austin & R. C.
Noleman, 307-8-9 Bullard Blk., Phone 15497, Attor-
neys for Petitioner, Appellant.

UNITED STATES OF AMERICA

District Court of the United States
SOUTHERN DISTRICT OF CALIFORNIA

IN-RE ALFONSO CABRIL-
LOS et alias an infant,
LOUISA CABRILLOS. Peti-
tion, Appellant,

vs.,

EMILLIO ANGEL and CHO-
NITA ANGEL his wife,

Respondents: Appellee's

CLERK'S OFFICE

HABEAS COR-
PUS No. 2996
(Crim.)

PRAECIPE

TO THE CLERK OF SAID COURT:

Sir:

Please cause to be prepared, viz copies

- 1 Petition for Writ;
- 2 Order for Writ;
- 3 Writ of Habeas Corpus and return
- 4 Decision of the court;
- 5 Petition for appeal;
- 6 Order allowing appeal;
- 7 Assignment of errors;
- 8 Bond on appeal;
9. Citation;
- 10 Praecipe;
- 11 Certify to Original Bill of Exceptions as Settled
and allowed;
- 12 Certificate of Clerk.

June 24th 1921

F. C. Austin and

R C Noleman

Attorneys for Petitioner Appellant.

(Endorsed) HABEAS CORPUS *No.* 2996 (Crim.)
U. S. District Court SOUTHERN DISTRICT OF CALI-
FORNIA IN-RE Alfonso Cabrillos et alias, an infant,
LOUISA CABRILLOS Petitioner, Appellant. *vs.*
EMILLOI Angel and CHONITA ANGEL his wife,
Respondents, Appellee's. PRAECIPE FOR *Filed Jun*
24 1921 Chas. N. Williams, Clerk Douglas Van
Dyke, Deputy.

IN THE DISTRICT COURT OF THE UNITED
STATES IN AND FOR THE SOUTHERN
DISTRICT OF CALIFORNIA,
(Southern Division)

IN-RE ALFONSO CABRIL-
LOS et alias an infant,
LOUISA CABRILLOS. Peti-
tion, Appellant,

vs.,

EMILLIO ANGEL and CHO-
NITA ANGEL his wife,

Respondents: Appellee's

I, CHAS. N. WILLIAMS, Clerk of the United States District Court for the Southern District of California, do hereby certify the foregoing volume containing sixty pages, numbered from 1 to 60 inclusive, to be the Transcript of Record on Appeal in the above entitled cause, as printed by appellant and presented to me for comparison and certification, and that the same has been compared and corrected by me and contains a full, true and correct copy of the citation, petition for a writ of habeas corpus; order for writ of habeas corpus, writ of habeas corpus and return, decision of the court, petition for appeal, order allowing appeal, assignment of errors, bill of exceptions, appeal bond for cost and praecipe.

I DO FURTHER CERTIFY that the fees of the Clerk for comparing, correcting and certifying the foregoing Record on Appeal amount to and that said amount has been paid me by the appellant herein.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Seal of the District Court of the United States of America, in and for the Southern District of California, Southern Division, this day of , in the year of our Lord One Thousand Nine Hundred and Twenty-one, and of our Independence the One Hundred and Forty-sixth.

CHAS. N. WILLIAMS,
Clerk of the District Court of the
United States of America, in and
for the Southern District of Cali-
fornia.

By

Deputy.